PUBLIC NOTICE

The West Virginia Department of Environmental Protection (WVDEP) has proposed a settlement of an Administrative Penalty Order for Republic Energy, LLC which resolves violation(s) of the West Virginia Water Pollution Control Act. In accordance with the Draft Order, Republic Energy, LLC has been assessed administrative penalties and must comply with the Act. Final settlement is subject to comments received during the thirty (30) day period ending June 26, 2022. Comments regarding this Administrative Penalty Order may be submitted to: John Vernon, Assistant Deputy Director; West Virginia Department of Environmental Protection, Division of Mining and Reclamation, Inspection & Enforcement; 601 57th Street SE; Charleston, WV 25304; (304) 926-0499. Comments may also be submitted electronically to: DEP.Comments@wv.gov. The proposed settlement may be viewed at the following address: http://www.dep.wv.gov/pio/Pages/Settlements,Ordersouttopublicnotice.aspx.



west virginia department of environmental protection

Division of Mining and Reclamation 601 57th Street Charleston, WV 25304

Phone: 304-926-0440/Fax: 304-926-0456

Harold Ward, Cabinet Secretary dep.wv.gov

CONSENT ORDER ISSUED UNDER THE WATER POLLUTION CONTROL ACT WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11

TO:

Republic Energy, LLC

PO Box 69 Pax, WV 25904 DATE: April 20, 2022

ORDER NO.: M-21-384

INTRODUCTION

This Consent Order is issued by the Director of the Division of Mining and Reclamation (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Republic Energy, LLC (hereinafter "Republic").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

- 1. Republic holds West Virginia National Pollution Discharge Permits ("NPDES") issued by the West Virginia Department of Environmental Protection ("WVDEP") for its mining and mining-related operations in West Virginia. Among those WVDEP NPDES Permits WV1019198 ("Permits").
- The WVDEP NPDES Permits are issued pursuant to the WVDEP's authority under the West Virginia Water Pollution Control Act pursuant to authority delegated to the WVDEP by the United States Environmental Protection Agency under the Federal Clean Water Act for the issuance of WVDEP NPDES Permits.
- 3. Republic has reported the quality of its discharges and other information to the WVDEP, pursuant to the terms and conditions of the WVDEP NPDES Permits. This reporting has occurred through electronic filing of the Discharge Monitoring Reports ("DMRs") as prescribed by the Division of Mining and Reclamation ("the Division"), or through the submission of paper copies of DMRs.

Promoting a healthy environment.

- 4. The Division has developed and maintains a database which compiles the information submitted in DMRs by holders of WVDEP NPDES Permits issued for mining and mining-related operations, including the information submitted by Republic for the Permits ("the Database"). The Database has been used by the WVDEP to track compliance with WVDEP NPDES Permits for coal mining activities.
- 5. The WVDEP has evaluated agency records beginning with May 14, 2019 through December 2021 regarding Republic Permit(s), DMRs, and other related information, including information submitted by the Republic at the request of WVDEP, and has completed an evaluation of Republic DMRs compliance.
- 6. Based on its evaluation, the WVDEP has documented violations of the permitted effluent limits for the WVDEP NPDES Permits. The results of this investigation are included in Attachment 2 which list the WVDEP NPDES Permits that have violations.
- 7. Based on its evaluation, the WVDEP documented 9 (three) Single Event Violations of WV1019198.
 - a. Single Event Violation #1 Enforcement Standard 'Effluent Violation' written on June 27, 2019 and terminated on July 30, 2019.
 - b. Single Event Violation #2 Enforcement Standard 'Effluent Violation' written on February 3, 2020 and terminated on October 22, 2020.
 - c. Single Event Violation #3 Enforcement Standard 'Effluent Violation' written on March 2, 2021 and terminated on November 19, 2021.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code it is hereby agreed between the parties, and ORDERED by the Director:

- 1. Republic shall immediately take all measures to initiate compliance with all terms and conditions of the Permit(s).
- 2. Republic shall comply with the Compliance Schedule and reporting requirements contained in Attachment 1.
- 3. Because of Republic WVDEP NPDES violations of the Permit(s), Republic shall be assessed a Civil Administrative Penalty of \$39,500 (thirty nine thousand and five hundred dollars) to be paid to the Department of Environmental Protection within thirty (30) days of demand for penalty from WVDEP. The penalty amount will be deposited in the Mining and Reclamation Operations Fund. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or Federal Law.

4. Total Payment in the amount of \$39,500 (thirty nine thousand and five hundred dollars) shall be mailed to:

John Vernon, Assistant Deputy Director Division of Mining and Reclamation WV-DEP 601 57th Street SE Charleston, WV 25304

5. The Order for Compliance of this Order satisfies any claim WVDEP has or may have for penalties under the West Virginia Water Pollution Control Act for violations of the effluent limits for outlets which occurred May 14, 2019 through December 2021 in relation to the specified Permits.

6. Stipulated Penalties

- a. Beginning with the effective date of this Order, Republic shall be liable for stipulated penalties for violations of items 2 through 4 of the Order for Compliance of this Order. These stipulated penalties shall be effective until termination of this Order. These stipulated penalties accrue as follows:
 - i. The first through the 15th day of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$1,000 per day per violation.
 - ii. The 16th through 30th days of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$2,000 per day per violation.
 - iii. The 31st day and all additional days of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$3,000 per day per violation.

OTHER PROVISIONS

- 1. Republic hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Republic agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Republic does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Republic other than proceedings, Administrative or Civil, to enforce this Order.
- 2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.

- 3. If any event occurs which causes delay in the achievement of the requirements of this Order, Republic shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Republic becomes aware of such a delay, notification shall be provided to the Assistant Deputy Director and shall, within ten (10) working days of initial notifications, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Republic intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Republic (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
- 4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Republic of the obligation to comply with any applicable law, Permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Republic to additional penalties and injunctive relief in accordance with the applicable law.
- 5. This Order shall terminate upon the verification of WVDEP that Republic has met all requirements with the Order and is in full compliance.
- 6. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
- 7. This Order is binding on Republic, its successors and assigns.

Public Notice begin date:

8. The entry date of this Order shall be the date the Order is executed by the Director.

6. The entry date of this order shall be the date the order	
amo U. Worl to TRESIDENT	5-23-2022
Company Representative, Representative Title	Date
Republic Energy, LLC	
JAMES V. WOOD II PHESIDENT	
Company Representative, Printed	

Public Notice end date:		
Jonathan Rorrer, Acting Director	Date	
Department of Environmental Protection		
Division of Mining and Reclamation		

Attachment 1

The Permittee shall achieve compliance with the requirements of the Order in accordance with the following Compliance Schedule:

a.	Submit payment of Civil	Pursuant to Sections 3 and 4 of the Order for
	Administrative Base Payment	Compliance of this Order
b.	Submit 'Winter' fish tissue sampling	By July 31, 2022
	results to Assistant Deputy Director	
c.	Submit 'Summer' fish tissue sampling	By January 31, 2023
	results to Assistant Deputy Director	
d.	Continue to monitor all applicable	
	permits/outlets/parameters per	Monthly per Discharge Monitoring Report
	approved final effluent limits and	requirements
	submit per NPDES permit conditions	-

					Exc	ATTACH eedances 05/1	ATTACHMENT 2 Exceedances 05/14/2019 to 12/31/21	121					
	outlet	chemical report date ch	chem	rpt average	ipt maximum limt average limt maximum limt units	it average Imt	maximum Imt		noncompliance	% Exceedance	Degree of noncompliance		
REPUBLIC ENERGY, LLC WV1019198	200	3/31/2020 0:00 01	3/31/2020 0:00 01045 - Iron, Total (as Fe)		.01	1 64	MGR			A CACOCOGNEC	WIIN	MOD	MA
REPUBLIC ENERGY, LLC WV1019198	200	20:20:20:20:00 00 00 00 00 00 00 00 00 00 00 00 00	1981 - Selementi, Total Recoverable		10 8	18.6		1	- Exceeds Concentration Maximum	%91	X %		
REPUBLIC ENERGY, LLC WV1019198		5/31/2020 0:00 00	5/31/2020 0:00 00981 - Selentum, Total Recoverable 5/31/2020 0:00 00981 - Selentum Total Recoverable		19.7	15.6	5 UGA		010 - Exceeds Concentration Maximum	26%	X		
REPUBLIC ENERGY, LLC WV1019198		3/31/2021 0:00 00	1981 - Selenium, Total Recoverable		15.7	15.6			- Exceeds Concentration Maximum	14%	X		and the same of the same of
REPUBLIC ENERGY, LLC WV1019198	013	7/31/2020 0:00 00	1981 - Selenium, Total Recoverable		39.9	8.2			- Exceeds Concentration Maximum	8	×		
REPUBLIC ENERGY, LLC WV1019198	3	9/30/2020 0:00 00	2961 - Selentum, Total Recoverable 1961 - Selentum, Total Recoverable		23.8	8.2	no	11	- Exceeds Concentration Maximum	190%	XX		
REPUBLIC ENERGY, LLC WV1019198		10/31/2020 0:00 00	1981 - Selenium, Total Recoverable		26.8	82	50	1	- Exceeds Concentration Maximum	352%	×)	
REPUBLIC ENERGY, LLC WV1019198	+	12/31/2020 0:00 00	1981 - Selenium, Total Recoverable		25.1	8.2	ne		Exceeds Contentration Maximum	227%	×	,	
REPUBLIC ENERGY, LLC WV1019198	H	4/30/2021 0:00100	1961 - Selentum, Total Recoverable 1981 - Selentum Total Recoverable		31.8	8.2	Sn.	11	- Exceeds Concentration Maximum	288%	X		
REPUBLIC ENERGY, LLC WV1019198	013	5/31/2021 0:00 00	1981 - Selentum, Total Recoverable		23.7	8.2	on n	-	Exceeds Concentration Maximum	267%	×		
REPUBLIC ENERGY LLC WV1019198	+	6/30/2021 0:00 00	1981 - Selenium, Total Recoverable		21	8.2	000	1	- Exceeds Concentration Maximum	183%	×		
REPUBLIC EMERGY CLC WV1010144	014	9/30/2020 0:00 01	045 - Iron, Total (as Fe)		2.5	1.05			010 - Exceeds Concentration Maximum	156%	×		
REPUBLIC ENERGY S.C. MV1016144	11.0	SC112019 0 (M) NO	100 - April 100 and Cara Cara Cara Cara Cara Cara Cara Car		80.	76	MG	A. 010	- Expeeds Concentration Magmun	1367	×		
REPUBLIC ENERGY LLC WV1016198	0.34	12/31/2019 0:00/00	1981 - Setemann Intel Secondary		2 2 2	15.8	UG	0.00	Expends Conventration Maxemum	310			-
DEDIEL CHERCY I.C. WIVEDTONE	180	228/2020 0100 00	9851 - Selenastri, Total Recoverable		24 0	900	90	4 010	- Exceeds Concentration Magnitus	358			
REPUBLIC ENERGY, LLC WV1019198	016	3/31/2020 0:00 00	00981 - Selenium, Total Recoverable		28.1	15.6			Excelets.	¥-0-2		and the second s	
REPUBLIC ENERGY ILC WATCHES	910	4/30/2020 0:00 00	1981 - Selentum, Total Recoverable		24.3	15.6		010		%08	X		
REPUBLIC ENERGY 110 MARKOTOGO	0.15	5/31/2020 0:00 00	1981 - Selenium, Total Recoverable		23.5	15.6		T	- Exceeds Concentration Maximum	%95	×		
REPUBLIC ENERGY LLC WV1010100	016	6/30/2020 0:00 00	6/30/2020 0:00 00981 - Selenium, Total Recoverable		23.6	15.6	nen	T	010 - Exceeds Concentration Maximum	51%	××		
REPUBLIC ENERGY, LLC WV1019198	016	1/31/2020 0:00/00	1981 - Selenium, Total Recoverable		24.7	15.6		010	- Farneds Concentration Magmum	51%	×		-
REPUBLIC ENERGY, LLC WV1019198	016	2/28/2021 0:00 00	1981 - Selentum, Total Recoverable		19.1	15.6		010	- Exceeds Concentration Maximum	V-BC	X		
SEV #1 WYIGIGIS	10	5070010 0-00100	1967 - Selentum, Total Recoverable		18.3	15.6		010	- Exceeds Concentration Maximum	77.29	X		
WV/1016108	613	6/27/2019-0-00-00	GR : Salanum I odel Community		2	8.2	DO.	010	- Excepts Concentration Maximum	W.C.			-
WV401919P	93.6	CV2772019 0 00 080	SRI - Saferiage Total Decemberate		17.5	15.6	20	1 010	- Exceeds Concentration Maximum	136.			-
190 A 20 (40 / 10 10 10 E	GO	2/3/2020 0:00 011	045 - Iron Total (as Fe)		78.0	6 6 6	80	L 010	- Estiments Concentration Magentins	238			
WV1019198	300	2/3/2020 0:00 01	195 - Akaromary Total (as A)		2.0	100	WC	010	- Exceeds Concentration Maximum	395%			-
WATCHES	200	2372020 0 680 060	981 - Selanaun Total Recoverable		1		MG	0.00	- Exceeds Concentration Magnitum	220%			-
W. C. 123 193 153	200	23/2020 0:00 000	981 - Selenarn Total Recoverable		40	0 0	0.00	010	- Exercise Concentration Maximum	245			
NAME OF TAXABLE PARTY O	200	202020 0-00 000	981 - Selenaem, Total Recoverable		26	2.51	CIT	010	Tarabads Concerding about Measuralism	241.			-
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WYNTHAM	01.	2047000 0.0000000000000000000000000000000	Dec Chresholm Todal Recoverable		21	19.6	300	010	Exceeds Concentration Maximum	***************************************			
	0.14	2/24/2020 0:00 000	961 - Selection Total Services		95	28	00	010	- Extrineds Concentration Maximum	480.			-
SEV #3 WV1019198	013	3/2/2021 0:00 000	00981 - Selenium, Total Recoverable		46	15.6	000	010	- Exceeds Concentration Maximum	346.9			
86161610 WV101919198	013	4/5/2021 0:00 000	981 - Selenium, Total Recoverable		23	8.2	150	010	- Exceeds Concentration Maximum	83%	×		-
REPUBLIC ENERGY 110 INVItorator	200	2799/2020 0:00 000	981 - Sefensam, Total Recoverable	15.9	5		3	000	- Exceeds Concentration Maximum	180%	×		
REPUBLIC ENERGY, LLC IWV1019190	000	3/31/2020 0:00 0:00	981 - Selentum, Total Recoverable	17	0		VOO.		030 - Expende Comentation Assesses	144			
REPUBLIC ENERGY, LLC WV1019198	000	5/11/2020 0:00 0:00	951 - Selentum, Total Recoverable	11.5	6		NG/		- Exceeds Concentration Average	200	X		
REPUBLIC ENERGY, LLC WV1019198	000	6/30/2020 0-00 000	081 Calculation Time	16.5	6.		UG/		- Exceeds Concentration Average	67.07	×		
REPUBLIC ENERGY, LLC WV1019198	004	8/31/2020 0-00 000	8/31/2020 0:00 0:00 September, 10tal Recoverable	13.3	01		UGIL		030 - Exceeds Concentration Average	A896.	X		
REPUBLIC ENERGY, LLC WV1019198	000	9/30/2020 0:00 000	9/30/2020 0:00 00981 - Selection Total Description	12.3	0)	-	UGA		- Exceeds Concentration Average	37%	X		
REPUBLIC ENERGY, LLC WV1019198	-	1/31/2021 0-00 000	081 - Selement Total Recoverable	-	on .		UG/		- Exceeds Concentration Average	7946	× ×		
REPUBLIC ENERGY, LLC WV1019198	-	2/28/2021 0:00 000	281 - Selentium Total December		0		NG/		- Exceeds Concentration Average	(7a71	× ×		-
REPUBLIC ENERGY, LLC WV1019198	004	3/31/2021 0:00 006	981 - Selection Total December	-	6		NG/		- Exceeds Concentration Average	7655			
REPUBLIC ENERGY, LLC WV1019198		7/31/2020 0:00 000	981 - Salaniam Total Description	13.2	6	-	US/		- Exceeds Concentration Average	7.69	Α Α		
REPUBLIC ENERGY, LLC WV1019198	013	8/31/2020 0:00 000	981 - Selentum Total Recoverable	33.0	4.7	-	000	1	- Exceeds Concentration Average	7622	<		
REPUBLIC ENERGY, LLC WV1019198		9/30/2020 0:00 000	981 - Selenium, Total Recoverable	31 1	4.7	-	NG/	1	- Exceeds Concentration Average	406%	Comment of the last of the las	<>>	
REDIES CAREOU LLC WV1019196		10/31/2020 0:00 008	10/31/2020 0:00 00981 - Selenium, Total Recoverable	24	4.7	+	300		030 - Exceeds Concentration Average	295%		×	
REPLIANT ENERGY LLC WOTDINGS	-	12/31/2020 0:00 000	981 - Selenium, Total Recoverable	23.8	47	1	200	1	- Exceeds Concentration Average	411%		X	
REPUBLIC ENERGY LIC MANOGODO	013	1/31/2021 0:00 000	381 - Selentum, Total Recoverable	28.5	4.7	-	500	1	030 - Exceeds Concentration Average	406%		×	
REPUBLIC ENERGY LLC INVIDIGIOS	+	4/30/2021 0:00 000	381 - Selenium, Total Recoverable	30.1	4.7		ngn	1	Expends Concentration Average	%905		×	-
REPUBLIC ENERGY, LLC WV1019198	+	5/31/2021 0:00 006	381 - Selenium, Total Recoverable		4.7		NGV		Fireade Coccentration Average	540%		×	
REPUBLIC ENERGY, LLC WV1019198	+	5/30/2021 0:00/006	381 - Selentum, Total Recoverable	20.2	4.7		UGN		- Exceeds Concentration Average	394%		×	
REPUBLIC ENERGY, LLC WV1019198	+	000000000000000000000000000000000000000	361 - Selenium, Total Recoverable	6.71	4.7		NON		- Exceeds Concentration Average	330%		×	
REPUBLIC ENERGY, LLC WV1019198	014	1/31/2021 0-001009	301 - Selentum, Total Recoverable	6.22	4.7		UGN		- Exceeds Concentration Average	13.78	×		
REPUBLIC ENERGY, LLC WV1019198	-	3/31/2021 0:00 000	281 - Selenium Total December	7.76	4.7		NOV		- Exceeds Concentration Average	35.76 REP.	>		
REPUBLIC ENERGY, LLC WV1019198	-	4/30/2021 0:00 009	381 - Selection Total December		4.7		NG/I		- Exceeds Concentration Average	71%	<>>		-
REPUBLIC ENERGY, LLC WV1019198	014	6/30/2021 0:00 009	381 - Selenism Total Recoverable		4.7	1	UGV	030	- Exceeds Concentration Average	7989	< >		
REPUBLIC ENERGY, LLG WV1019190	21.0	5/31/2019 0:00/009	961 - Selenger Total Recoverable	3 8 8	4.7	-	N-S/I	030	Exceeds Concentration Average	72%	< >		
SEGMENT CARROL LC WVPD19148	91.0	12/31/2019 0:00 009	181 - Seleman Total Recoverable	200		-	No.	030	- Exceeds Concentration Average	3601	<		
DEDUCATION OF THE PROPERTY OF	-	2/29/2020 0:00 000	81 - Selenum, Total Recoverable	32.1		1	NSO.	0.30	- Extreeds Condentiation Average	1087			
REDIELIC ENERGY, LLC WV1019198		3/31/2020 0:00 000	181 - Selenium, Total Recoverable	25.5	0	+	NG/	030	Exceeds Concentration Average	1467			-
REPLIANC ENERGY, LLC WV1019198	-	4/30/2020 0:00 000	181 - Selenium, Total Recoverable	23	0	-	DO.	030	 Exceeds Concentration Average 	183%	X		-
REPUBLIC ENERGY 110 MAY1019196	-	5/31/2020 0:00 009	181 - Selenium, Total Recoverable	22.8	0		100	36	- Exceeds Concentration Average	156%	×		
REPUBLIC ENERGY 11C WV1019198	-	6/30/2020 0:00 000	181 - Selenium, Total Recoverable	22.2	6.		501	0.00	Exceeds Concentration Average	153%	×		
REPUBLIC ENERGY, LLC WV1019198	010	1/31/2020 0:00 000	1/31/2020 0:00 00981 - Selenium, Total Recoverable	24.7	6		UGA	03	Carreda Consettation Average	147%	X		-
REPUBLIC ENERGY, LLC WV1019198	-	200 000 0000 10000000	81 - Selentum, Total Recoverable	19.1	Ø1		UGAL	03	Exceeds Concentration Average	174%	×		
REPUBLIC ENERGY, LLC WV1019198	910	6/30/2021 0:00/009	61 - Selenium, Total Recoverable	18.3	6		NGV	03	Exceeds Concentration Average	2711	×		
		500000000000000000000000000000000000000	c1 - Selenum, Total Recoverable	14.5	6		NGV	03	Exceeds Concentration Average	103%	×		
									A Company of the Comp	TOTALS	×		
										00000	171	100	

"Exceedances in RED text removed per Assessment Officer recommendation dus to being covered under Consent Decree 2:14-CV-11609

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Republic Energy, LLC

WVNPDES No.:

WV1019198

Treatment System Design Maximum Flow:

N/A MGD

N/A

Treatment System Actual Average Flow:

MGD

(if known)

Enter FOF# and rate each finding as to Potential and Extent.

	Enter FOF# and rate ea	Timeling	II	otential	and L	iciii.									
									FOF#	#					
1)	Potential for Harm Factor	Factor Range	No T	No T	No T	Т	Т	Т	T Al	T Al	T Al	TI	TI	TI	
a)	Amount of Pollutant Released	1 to 3	1	1	2	1	1	2	1	1	2	1	1	2	
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	3	3	3	ī	1	1	-
c)	Sensitivity of the Environment	0 to 3	1	1	1	3	3	3	3	3	3	2	2	2	
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1.	1	1	1	1	
	Average Potential for Factor	r Harm	1	1	1.2	1.4	1.4	1.6	1.8	1.8	2	1.2	1.2	1.4	No
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non- Compliance	1 to 3	1	2	3	1	2	3	1	2	3	1	2	3	

Potential for Harm Factors:

- 1)c Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d Length of Time of Violation
- 1)e Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

 $\underline{\text{Minor}}$ = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

 $\frac{\text{Moderate}}{\text{Daily Max., exceed numeric WQ standard by >= 41\% and <= 300\% for Avg. Monthly , >= 101\% and <= 600\% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.}$

 $\underline{\text{Major}}$ = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

	Potential for	Factor							FOF	#					
1)	Harm Factor	Range	TIAL	TIAL	TIAL				65						
a)	Amount of Pollutant Released	1 to 3	1	1	2										
b)	Toxicity of Pollutant	0 to 3	3	3	3										
c)	Sensitivity of the Environment	0 to 3	2	2	2										
d)	Length of Time	1 to 3	1	1	1										
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1										
	Average Potential for Factor	or Harm	1.6	1.6	1.8	No	No	No	No	No	No	No	No	No	No
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non- Compliance	1 to 3	1	2	3										

		Extent of Dev	viation from Require	ement
		Major	Moderate	Minor
Potential for Harm to Human Health	Major Moderate	\$8,000 to \$10,000 \$4,000 to \$5,000	\$6,000 to \$8,000 \$3,000 to \$4,000	\$5,000 to \$6,000 \$2,000 to \$3,000
or the Environment	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

	Potential for	Extent of	1	Multiple	
FOF#	Harm	Deviation	Penalty	Factor	Base Penalty
No T	Minor	Minor	\$1,000	17	\$17,000
No T	Minor	Moderate	\$1,500	29	\$43,500
		Moderate	\$1,500	23	343,300
No T	Moderate	Major	\$4,200	9	\$37,800
Т	Moderate	Minor	\$2,400		\$0
T	Moderate	Moderate	\$3,400		\$0
		· · · · · · · · · · · · · · · · · · ·	\$3,400		\$0
Т	Moderate	Major	\$4,600		\$0
T Al	Moderate	Minor	\$2,800		\$0
T Al	Moderate	Moderate	\$3,800		\$0
T Al	Moderate	Major	\$5,000		\$0
ΤI	Moderate	Minor	\$2,200		\$0
1 T	Moderate	Moderate	\$3,200		\$0
ΙT	Moderate	Major	\$4,400		\$0
0	FALSE	FALSE	FALSE		\$0
TIAL	Moderate	Minor	\$2,600		\$0
TIAL	Moderate	Moderate	\$3,600		\$0
TIAL	Moderate	Major	\$4,800		\$0
0	FALSE	FALSE	FALSE	.1.	\$0
FTS	Major	Major	\$10,000	0	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE		60
0	FALSE	FALSE	FALSE	1	\$0 \$0
0					
0	FALSE FALSE	FALSE FALSE	FALSE	1	\$0
<u> </u>			FALSE		\$0
	i otai Ba	se Penalty			\$98,300

Penalty Adjustment Factors

(pursuant to 47CSR1-7.2)

Penalty Adjustment Factor

- 7.2.b.1 Degree of or absence of willfulness and/or negligence 0% to 30% increase
- 7.2.b.4 Previous compliance/noncompliance history 0% to 100% increase based upon review of last three (3) years Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum
- 7.2.b.6 Economic benefits derived by the responsible party (increase to be determined)
- 7.2.b.7 Public Interest (increase to be determined)
- 7.2.b.8 Loss of enjoyment of the environment (increase to be determined)
- 7.2.b.9 Staff investigative costs (increase to be determined)
- 7.2.b.10 Other factors

Size of Violator: 0 - 50% decrease

<u>NOTE</u>: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

	% Reduction
Avg. Daily WW Discharge Flow (gpd)	Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

- 7.2.b.2 Good Faith 10% decrease to 10% increase
- 7.2.b.3 Cooperation with the Secretary 0% to 10% decrease
- 7.2.b.5 Ability to pay a civil penalty 0% to 100% decrease

Base Penalty Adjustments (pursuant to 47CSR1-7.2)

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\$39,500

			Base Penalty
Penalty Adjustment Factor	% Increase	% Decrease	Adjustments
7.2.b.1 - Willfulness and/or negligence -	0		\$0
7.2.b.4 - Compliance/noncompliance history -	0		\$0
7.2.b.6 - Economic benefits -			40
(flat monetary increase)	\$800		\$800
7.2.b.7 - Public Interest -			\$600
(flat monetary increase)			\$0
7.2.b.8 - Loss of enjoyment -			Ψ0
(flat monetary increase)			\$0
7.2.b.9 - Investigative costs -			
(flat monetary increase)			\$0
7.2.b.10 - Other factors (size of violator)			\$0
7.2.b.10 - Additional Other Factors -			
Increase (flat monetary increase)			\$0
7.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)		Decrease per Assessment Officer	\$40,000
Public Notice Costs (flat monetary increase)	\$60		\$60
7.2.b.2 - Good Faith - Increase			\$0
7.2.b.2 - Good Faith - Decrease		10	(\$9,830)
7.2.b.3 - Cooperation with the Secretary		10	(\$9,830)
7.2.b.5 - Ability to Pay			\$0
Penalty Adjust	ments		(\$58,800)

Estimated Eco	nomic Benefit	Estimated
Item		Benefit (\$)
Monitoring & F	Reporting	
Installation & I	Maintenance of Pollution Control Equipment	
O&M expense compliance	s and cost of equipment/materials needed for e	
Permit Applica	tion or Modification	
Competitive A		\$8,000
Estimated Ecor	nomic Benefit	\$8,000
Comments:	Competitive advantage: Effluent violations @ \$100/quarter x 8 quarters = \$	\$800

Penalty =